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**Comparison of Recent Settlement Proposals:
Three Sovereigns (July 29, 2005) and
Teck Cominco Metals, Ltd. (August 30, 2005)
(September 13, 2005)**

(b) (5), (b)(5)attorney work product

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General Issues	Three Sovereign Proposal	TCM Proposal	Comments
<i>Government of Canada's Involvement</i>	Government of Canada has <u>no</u> decision-making authority over matters involving cleanup in U.S. territory	Government of Canada to be fully involved: <ul style="list-style-type: none"> • Equal access to info/docs • Canada to receive deferential treatment • Must explain scientifically any Canadian position rejected/overruled 	
<i>Costs Generally</i>	TCM must pay all past and future response and oversight costs incurred by the Three Sovereigns in relation to the AOC and CD	TCM to pay past, present, and future costs associated with the human health risk assessment-RI/FS TCM to prepay eco-risk assessment costs semi-annually through a separate contractual agreement Combined cost of both the human health and ecological risk assessments: <u>capped at \$14 million</u> If TCM withdraws from ecological assessment, cap only applies to the human health risk assessment-RI/FS	TCM's proposal essentially allows TCM to walk away from all liability with a payment of \$14M
<i>Unilateral Administrative Order (UAO)</i>	UAO must remain in place until such time as all parties agree otherwise	EPA to pull the UAO <ul style="list-style-type: none"> • EPA agrees <u>not</u> to reissue it while TCM is working with the parties • Parties file agreement with court stating that TCM is not required to comply with the UAO 	TCM's proposal essentially allows TCM to walk away from all liability with a payment of \$14M
<i>Litigation</i>	All aspects of litigation remain "as is" until such time as all parties agree otherwise (district court order, Ninth Circuit case and UAO)	Vacate district court order upon receipt of funds for human health risk assessment	TCM's proposal essentially allows TCM to walk away from all liability with a payment of \$14M
Track 1 Human Health Risk Assessment (HHRA)			
<i>Process</i>	Human health remedial investigation/feasibility study (RI/FS) conducted by EPA in compliance with the National Contingency Plan (NCP)	Human health risk assessment-RI/FS conducted by EPA in compliance with NCP	
<i>Results/Products</i>	<ul style="list-style-type: none"> • Human health RI/FS • Human health interim/conditional ROD (with integrated eco-risk track data) • Implement interim response/removal actions of human health interim/ 	<ul style="list-style-type: none"> • Human health risk assessment-RI/FS • Human health <u>interim</u> ROD issued by EPA • EPA to issue <u>interim</u> ROD • <u>No</u> integration between human health and eco-risk tracks • <u>No</u> Final Comprehensive 	

General Issues	Three Sovereign Proposal	TCM Proposal	Comments
<i>Results/Products continued</i>	<ul style="list-style-type: none"> conditional ROD Develop Final Comprehensive ROD (eco-risk/NRD and human health) 	ROD	
<i>Preliminary Remediation Goals</i>	[Not discussed]	No preliminary remediation goals established in advance - goals set only after studies performed in compliance with the NAS report	TCM cherry-picked elements of the NAS report favorable to TCM and disregarded those that weren't
<i>CERCLA</i>	Must be conducted under an AOC or CD	TCM refuses to submit to CERCLA process	TCM previously agreed to a CD
<i>Conduct of Studies</i>	[NAS report not addressed - this is a new element]	<p>Must comply with standards set out in the NAS report</p> <p>EPA to perform studies <u>after</u> payment by TCM and release of TCM from liability</p>	TCM cherry-picked elements of the NAS report favorable to TCM and disregarded those that weren't
<i>Decision-making Process</i>	Three Sovereigns participate as CERCLA support agencies	<p>Joint Scientific Panel</p> <ul style="list-style-type: none"> Three (3) members each from U.S. & Canada Design based on NAS report Reviews results and makes recommendations Input by Canada & TCM EPA makes final decision EPA issues interim ROD 	TCM cherry-picked elements of the NAS report favorable to TCM and disregarded those that weren't
<i>Legal Agreement</i>	Must be legally binding process involving an AOC or CD	Process is a voluntary non-binding agreement that relies on a joint scientific group for oversight	
<i>Costs</i>	<p>TCM to fund human health RI/FS and ROD</p> <p>TCM must fund past and future response and oversight costs incurred by the Three Sovereigns pursuant to an AOC or CD</p>	TCM to pay past, present, and future costs	
<i>Liability</i>	TCM must waive its defenses to PRP status under CERCLA for purposes of entering into AOC with EPA	Upon payment, TCM released from <u>all</u> liability for the human health risk assess. and RI/FS	
Track 2 Ecological Risk Assessment			
<i>Process</i>	<p>ECO/NRDA Trustee Council performs ecological remedial investigation and combined natural resource damages assessment (NRDA)</p> <ul style="list-style-type: none"> Relevant data integrated into human health interim/conditional 	<p>TCM performs a "cooperative ecological assessment"</p> <ul style="list-style-type: none"> Designed to meet objectives of "normal" eco-risk assessment process Agreed upon schedule and interim milestones 	Decisions are to be made based on "good credible science," but this phrase is not defined

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<i>Process continued</i>	ROD <ul style="list-style-type: none"> Data integrated into Final Comprehensive ROD (eco-risk and human health) 		
<i>Results/Products</i>	<ul style="list-style-type: none"> Ecological remedial investigation and combined NRDA investigation Establish natural resource injuries Develop preferred alternatives for restoration and remediation Develop long-term monitoring plan Integrate relevant eco-risk track data into the interim/conditional human health RI/FS Produce Final Comprehensive ROD (eco-risk/NRD and human health) 	<ul style="list-style-type: none"> Conduct "cooperative ecological assessment" Develop remediation/restoration plan Evaluate potential on-site response and restoration actions Incorporate ecological components by EPA and the Trustees No criteria provided for negotiations No mention of long-term monitoring plan No integration of eco-risk track data into the interim/conditional human health RI/FS No Final ROD 	<p>The "cooperative ecological assessment" is <u>not</u> the same as an <u>ecological risk assessment</u>, which is required under the NCP</p> <p>Implementation of "necessary" measures for risk assessment</p>
<i>Preliminary Remediation Goals</i>	[Not discussed]	No preliminary remediation goals established in advance - goals set only after studies performed in compliance with the NAS report	TCM cherry-picked elements of the NAS report favorable to TCM and disregarded those that weren't
<i>CERCLA</i>	Must comply with the NCP	Ecological risk assessment performed pursuant to CERCLA § 107	
<i>ARARs</i>	[Not addressed in proposal, but the Three Sovereigns have repeatedly stated that the ARARs cannot be determined up front]	Any ARARs to be determined at <u>beginning</u> of process - consistent with NAS report	TCM cherry-picked elements of the NAS report favorable to TCM and disregarded those that weren't
<i>Conduct of Studies</i>	Designed to establish past and future natural resource injuries <ul style="list-style-type: none"> Conducted under Three Sovereign oversight Integrate relevant eco-risk track data into the interim/conditional human health RI/FS 	Designed to determine <u>only</u> the extent of risks/damages and risk mgmt. measures associated with TCM smelter <ul style="list-style-type: none"> All other studies to be paid for by the governments Conducted under EPA and Trustee oversight 	
<i>Whole lake effects</i>	Agreed to integrate whole lake effects	Includes integration of whole lake effects	
<i>Bioavailability of metals</i>	Agreed to integrate bioavailability of metals	Includes integration of bioavailability of metals	

General Issues	Three Sovereign Proposal	TCM Proposal	Comments
Remediation/Restoration Plan	Will address past, present and future injuries	Will be prospective - <u>will not address past injuries</u> <ul style="list-style-type: none"> Focus on continuing or future environmental risks Off-site restoration, replacement or other environmental projects to compensate for unabated environmental risks or injury 	
Decision-making Process	Integrated Cooperative Assessment Team <ul style="list-style-type: none"> EPA, Colville Tribe, Spokane Tribe, State, DOI and TCM TCM to assess work & provide tech. input 	Joint Scientific Panel <ul style="list-style-type: none"> Three (3) members each from U.S. & Canada Design based on NAS report Reviews results and makes recommendations Input by Canada & TCM EPA makes final decision EPA issues Interim ROD 	
Legal Agreements	Must be legally binding CD	TCM can opt out of the process if it considers the ecological studies to be unreasonable <ul style="list-style-type: none"> Provides written notice Submits to mediation by Joint Scientific Panel for 3 (three) months Can withdraw if no resolution Continues to pay for previously agreed-to studies <p>Governments can withdraw at any time if process not working or if not good faith - if EPA withdrawal, EPA can seek reimbursement and damages</p>	
Costs	TCM must fund past and future response/oversight costs incurred by Three Sovereigns necessary to assess ecological risks & natural resource damages (NRD) pursuant to a Consent Decree (CD)	TCM to prepay semi-annually through a separate contractual agreement	
Liability	TCM must waive its defenses to NRD liability for purposes of entering into CD for eco-risk track	TCM has no liability for studies not performed in accordance with <u>agreed</u> study plans	
Tolling Agreement	TCM must enter into a tolling agreement with the Three Sovereigns that provides that SOL for NRD claims will be tolled until mutually agreed upon date	TCM will enter into a tolling agreement that provides that SOL for NRD claims will be tolled until mutually agreed upon date	